



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/819,612

03/29/2001

Akio Suto

Q60558

4173

7590 07/21/2008  
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3213

EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT

PAPER NUMBER

2161

MAIL DATE

DELIVERY MODE

07/21/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* AKIO SUTO

---

Appeal 2008-0872  
Application 09/819,612<sup>1</sup>  
Technology Center 2100

---

Decided: July 21, 2008

---

Before HOWARD B. BLANKENSHIP, JEAN R. HOMERE, and  
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

In a paper filed May 19, 2008, Appellant requests reconsideration under 37 C.F.R. § 41.52 from an Opinion of the Board of Patent Appeals

---

<sup>1</sup> Filed on Mar. 29, 2001. The real party in interest is Fuji Photo Film, Co. Ltd. of Japan.

and Interferences (hereinafter Board) dated March 19, 2008. In the Opinion, we affirmed the Examiner's rejection of claims 1 through 19.

We have carefully reviewed the opinion in light of Appellant's request, and we find no error in the analysis or logic set forth therein. We have given full consideration to Appellant's remarks.<sup>2</sup> We have, however, found no basis upon which to grant Appellant's request for rehearing. We, therefore, decline to make any changes to our prior Opinion with respect to the claims noted above for the reasons that follow.

Appellant contends that the Board overlooked or misapprehended Appellant's arguments set forth in the Reply Brief at pages 3-4 and 5. (Req. Reh'g 2.) Particularly, Appellant argues that the Decision ignores the citation in the Reply Brief to col. 2, lines 29-31 indicating that replication management is a node management (hardware or software) and not database management. Further, Appellant argues that the Decision failed to properly construe the term coherency, as defined in Mayhead, to mean replicating hardware or software components between the nodes, and not database management. Thus, Appellant concludes that Mayhead's replication manager cannot correspond to a trigger based on updating of a database processing performed by clients. (Req. Reh'g 5-6.) These arguments are not persuasive. As set forth in the Decision, upon receiving a read or write request from a client at the first node, Mayhead teaches performing a coherency/consistency check between the nodes. Consequently, Mayhead's replication manager replicates files in a primary database located at the first node to a backup database located at a second node. (Decision 8.) As

---

<sup>2</sup> Request for Rehearing at pages 1-10.

detailed in the Decision, Mayhead undertakes such replication as a way to maintain coherency between the nodes. (Id.) Our review of Appellant's citations to Mayhead reveals nothing new. We do not agree with Appellant that replication management, as disclosed in Mayhead, is limited to node management and not database management. Appellants' attempt to create a distinction between node management and database management is a red herring. Mayhead clearly indicates that each of the nodes contains a database (file store), which is a software component at each of said nodes. (Id.) Therefore, one of ordinary skill in the art would readily recognize that Mayhead's replication manager, by maintaining coherency/consistency between these nodes upon detecting a read or write request at one of said nodes, serves the role of a replication trigger based on a database update that maintains data in the distributed databases in a synchronized status to facilitate data recovery in the event of a failure at one of the nodes.

Next, Appellant argues that the disclosed consistency in Mayhead purports hardware consistency/authorization check, and not database consistency. (Req. Reh'g 6-9.) While Appellant appears to admit that updated data in the primary database at a first node is transferred to the backup database at the second node, Appellant contends however that such an update is not a result of a replication trigger since the Mayhead's database update precedes the receipt of successful signal indicators. (Id.) These arguments are unpersuasive. As detailed in the Decision, Mayhead's updating of the back up database is triggered subsequently to performing the coherency/consistency check between the nodes, and determining that the primary database has already been updated. (Decision 9.) Therefore, the

ordinarily skilled artisan would appreciate that Mayhead's update trigger is based on the update of the primary database, and that the update of the backup database is subsequently based on receiving the update trigger indication. Appellant's attempt to parse the Decision into isolated citations appears to muddle the pivotal issue. As noted in the Decision, the claim limitation in question merely requires that upon a client's updating of a first database at a server, generating a replication trigger *based on* the updating of the first database to update another database at another server *based on* the replication trigger. (Claims Appendix.) As discussed above, we are satisfied that Mayhead discloses a replication manager that, upon a client updating of a primary database at a first node, causes a message to be sent to a backup database at a second node to thereby update said backup database, as a way to maintain coherency/ consistency between said nodes.

Therefore, we maintain our position that Appellant has not shown that the Examiner erred the Examiner erred in finding that Mayhead anticipates independent claims 1, 2, 7 through 9, and 16 through 19 under 35 U.S.C. § 102(e).

### CONCLUSION

In view of the foregoing discussion, we grant Appellant's request for rehearing to the extent of reconsidering our decision. However, we deny Appellant's request with respect to making any change thereto.

Appeal 2008-0872  
Application 09/819,612

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

DENIED

pgc

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington DC 20037-3213